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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,163	06/21/2006	Frederic Berthelin	Q92375	7850
23373 7590 09/08/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER NICHOLS II ROBERT K				
ART UNIT		PAPER NUMBER		
3754				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,163

Applicant(s)

BERTHELIN ET AL.

Examiner

ROBERT K. NICHOLS II

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/ICE)
Paper No(s)/Mail Date 01/11/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the use of legal term "said."
Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said slopes" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction required.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stebick (US 5,429,282).

Regarding claims 1 and 2, Stebick discloses a fluid dispenser head for associating with a fluid reservoir including: a stationary base 10 formed by, or for

mounting on, the reservoir (column 2, lines 54-56); a rotary actuator element 30 mounted in rotary manner on the base 10 so as to turn about an axis of rotation between two extreme abutment positions 60/62 (see fig. 4); and a dispenser orifice 33 that can be closed selectively by turning the element 30 on the base 10, the dispenser orifice 33 being situated on the axis of rotation of the element 30 on the base 10, the two extreme abutment positions 60/62 defining two open positions of the dispenser orifice separated by at least one position 64 in which the dispenser orifice 33 is closed (column 2, lines 3-8), the dispenser head being characterized in that it includes axial displacement means capable of axially displacing the element 30 relative to the base 10 while it is turning on the base 10 (see figure 4), the axial displacement means including a guide window (fig. 4) that extends over a fraction of the periphery of the base, defining at least one guide path (figs. 3a and 4) presenting two sections 54/56 that are connected together at a low point 64 (fig. 4), each of the two sections 54/56 defining a respective extreme abutment 62/60, the two extreme abutments 62/60 respectively corresponding to the two open positions (column 5, lines 19-22), and the low point 64 corresponding to the closed position (column 5, lines 61-68), and slopes presenting inclinations that are different (i.e. sections 54/56 have different slopes with respect to the longitudinal axis of the base; see figure 3a). Stebick discloses the actuator element 30 including at least one axial, rotary guide lug 32 engaged in the window (figs. 5a-5c and), so that while the actuator element 30 is being turned on the base 10, the at least one lug 32 is displaced in its respective window (see column 5, lines 22-31), thereby displacing the actuator element 30 axially, so as to reach different heights depending on

whether the lug 32 is in abutment against the first section or against the second section (see figures 3a and 5a-5c). Stebick further discloses the actuator element 30 includes axial guide means (inner sleeve see fig. 1a) including a plurality of tabs 74 engaged around a pin 72 formed by the base 10, so that the pin 72 is slidably mounted in the axial guide means, the guide means extending downwards from the periphery of the dispenser orifice 33 (fig. 1a); the plurality of tabs 74 being connected together by a scraper (see fig. 1a) and the guide means forming a plurality of slots (see fig. 1a) of sizes that vary as a function of the position of the pin 72 in the axial guide means (see figures 1a and 2c, and column 3, lines 17-30).

Regarding claim 3, Stebick discloses the base 10 includes a ring 24 formed with a plurality of axial, rotary guide windows (fig. 3a) distributed over the periphery of the ring 24, the element 30 including a skirt 34 that extends around the ring 24, and that, on its inside, forms a plurality of axial, rotary guide lugs 32/36 that are engaged in respective windows (see figures 5a-5c).

Regarding claim 4, Stebick discloses flowrate-varying means (fig. 4) making it possible to vary, from one open position to the other, the rate at which the fluid flows through the dispenser orifice 33 (see column 6, lines 16-36).

Regarding claim 9, Stebick discloses the actuator element 30 includes a detachable safety tab 40 that is blocked by the base 10, so that in the closed position the actuator element 30 is prevented from turning on the base 10 (see column 6, lines 37-51).

Regarding claim 10, Stebick discloses the two extreme open positions 62/60 are separated by at least one intermediate fixed open position 58 (see figure 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stebick (US 5,429,282).

Regarding claims 5-7, Stebick is silent to the abutment ends of the two open positions 60/62 being of different heights. However, Stebick discloses that a change in the position of the actuator element 30 with respect to the closure pin 72 results in a change of the flowrate through the dispensing orifice 33 (i.e. abutment ends 60 and 58 being of different heights, results in different open positions such that the flow rates through the orifice are different in the two open positions; see figure 6 and column 6, lines 16-36).

Thus, one of ordinary skill in the art would recognize that the known option of forming the abutment ends of the two open positions being of different heights, involves only routine skill in the art, for the predictable result of achieving different flow rates.

Claims 1, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laauwe (US 4,823,994), in view of Stebick (US 5,429,282).

Regarding claims 1, 5 and 8, Laauwe discloses a fluid dispensing head for associating with a fluid reservoir (fig. 1), the head including: a stationary base 1 for mounting on the reservoir 4, wherein the base forms a closing pin 14 (fig. 7); a rotary actuator element (C) mounted in rotary manner on the base 1 so as to turn about an axis of rotation between two extreme abutment positions 9a/9b (see figure 3); and a dispenser orifice 13 that can be closed selectively by turning the element (C) on the base 1; the dispenser orifice 13 being situated on the axis of rotation of the element (C) on the base 1 (figs. 1-8); the dispenser head being characterized in that it includes axial displacement means 9 that are capable of axially displacing the element (C) relative to the base 1 while it is turning on the base (figs. 3, 6 and 8), wherein, the axial displacement means includes at least one guide path (figs. 3, 6 and 8). Laauwe further discloses the base 1 includes an inner sleeve 8 inside which the pin 14 extends (figs. 7 and 8), the actuator element (C) includes a cover 12 disposed on the sleeve 8 and forming the dispenser orifice 13 (fig. 8), the cover including an annular lip 16/16a in leaktight, rotary sliding contact with said sleeve 8 (see figures 7 and 8, and column 2, lines 52-55).

Laauwe discloses all the elements of the claimed invention except the two extreme abutment positions defining two open positions of the dispenser orifice separated by at least one position in which the dispenser orifice is closed.

Stebick teaches a multi-position dispensing head for associating with a fluid reservoir including axial displacement means presenting two sections 54/56 that are connected together at a low point 64 (fig. 4), each of the two sections 54/56 defining a respective extreme abutment 62/60, the two extreme abutments 62/60 respectively corresponding to the two open positions (see rejection of claims 1 and 5 above).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device of Laauwe, with axial displacement means including two extreme abutment positions defining two open positions of the dispenser orifice separated by at least one position in which the dispenser orifice is closed, as taught by Stebick, in order to provide a multi-position self guiding dispensing head, for providing different flow positions.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Valley (US 6,135,318), Stull (US 4,424,918), Claude (US 6,394,295), Stull (US 4,842,169), Goyet et al. (US 3,430,798), Brooks (US 2,533,915), Debetencourt (US 4,779,764), Stull et al. (US 6,675,995) and McConnell (US 3,231,155) show other devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. K. N./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art
Unit 3754